

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, <i>et al.</i> ,)	
)	
)	CIVIL ACTION FILE NO.
Plaintiffs,)	1:17-CV-02989-AT
)	
v.)	
)	
BRAD RAFFENSPERGER, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**MARY CAROLE COONEY, VERNETTA NURIDDIN, KATHLEEN D.
RUTH, MARK WINGATE, AND AARON JOHNSON'S MOTION TO
AMEND THEIR CONSOLIDATED RESPONSE TO PLAINTIFFS'
MOTIONS FOR ATTORNEYS' FEES**

Come now the Members of the Fulton County Board of Registration and Elections, Mary Carole Cooney, Vernetta Nuriddin, Kathleen D. Ruth, Mark Wingate, and Aaron Johnson and file this motion to amend their Consolidated Response to Plaintiffs' Motions for Attorneys' Fees which was filed on November 15, 2019, by substituting page 17 of their brief. The members of the Fulton County BRE show that the original page 17 inadvertently identified the amount of costs being sought, \$75,459.04, instead of the amount of attorneys' fees being sought, \$1,458,588.75. An amended page 17, with the correct amount identified, is attached as Exhibit A.

Defendants respectfully request an Order allowing them to amend their brief by substituting the page 17 that is attached as Exhibit A. A proposed order granting the motion is attached as Exhibit B.

Respectfully submitted this 15th day of November, 2019.

OFFICE OF THE FULTON COUNTY ATTORNEY

/s/Cheryl Ringer

Cheryl Ringer

Georgia Bar Number: 557420

cheryl.ringer@fultoncountyga.gov

David R. Lowman

Georgia Bar No. 460298

Kaye Woodard Burwell

Georgia Bar No. 775060

OFFICE OF THE COUNTY ATTORNEY

141 Pryor Street, S.W., Suite 4038

Atlanta, Georgia 30303

(404) 612-0246

(404) 730-6324 (fax)

CERTIFICATION

The undersigned counsel hereby certifies that this motion has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(B) (Times New Roman 14-point) and that the brief complies with the page length limitations in Local Rule 7.1(D).

/s/Cheryl Ringer

Cheryl Ringer

Georgia Bar Number: 557420

cheryl.ringer@fultoncountyga.gov

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing **MOTION TO AMEBND** by means of the Court's CM/ECF system upon all counsel of record who have registered with that system.

This 15th day of November, 2019.

/s/Cheryl Ringer

Cheryl Ringer

Georgia Bar Number: 557420

cheryl.ringer@fultoncountyga.gov

EXHIBIT A

foundation for their second motion for preliminary injunction. But, the fact is Plaintiffs lost. The members of the Fulton County BRE should not be made to pay for Plaintiffs' failures. *See Webster Greenthumb, Inc. v. Fulton County, Georgia*, 112 F.Supp.2d 1339, 1354-55 (N.D. Ga. 2000) (no attorneys' fees awarded to plaintiff for unsuccessful class certification motion).

In addition, the Coalition Plaintiffs filed a Motion for Additional Injunctive Relief (Doc. 327) that was mooted when the Court stayed the case pending the State Defendants' appeal. (Doc. 336). The Coalition Plaintiffs note this without making any reduction in their attorneys' fee claim for having filed a motion that resulted in no relief. (Doc. 632, p.34).

In rejecting Plaintiffs' first motion for preliminary injunction, this Court noted that "the parties [had] filed endless briefs on Defendants' multiple motions to dismiss and amended complaints, largely due to Plaintiffs' changes in counsel...." (Doc. 309, p. 32) (emphasis added). This Court has already noted a degree of wasted effort in this case. Plaintiffs do nothing to address it. The Curling Plaintiffs' fee request in the amount of \$1,458,588.75 for the first preliminary injunction must therefore be denied. Similarly, the Coalition Plaintiffs' fee request includes time for preparation of the September 12, 2018 preliminary injunction hearing, all such fees must be denied as the Coalition Plaintiffs did not prevail on their motion.

EXHIBIT B

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_____)	

**ORDER SUBSTITUTING PAGE 17 OF MARY CAROLE COONEY,
VERNETTA NURIDDIN, KATHLEEN D. RUTH, MARK WINGATE, AND
AARON JOHNSON'S CONSOLIDATED RESPONSE TO PLAINTIFFS'
MOTION FOR ATTORNEYS' FEES**

This matter having come before the Court, and the Court being apprised of the circumstances, it is hereby ordered that the Clerk of Court is hereby directed to accept for filing the substituted page 17 which is attached as Exhibit A to the Motion.

SO ORDERED this _____ day of _____, 2019

Amy Totenberg
United States District Judge